



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

D6

File: [REDACTED] Office: California Service Center Date: DEC 5 2000

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

Petition: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

Public Copy

IN BEHALF OF PETITIONER: Self-represented

Identifying data located to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

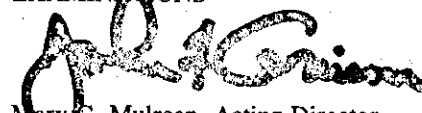
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Mary C. Mulrean, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a citizen of the United States. The beneficiary is a native and citizen of India. The director determined that the petitioner had not established that she and the beneficiary personally met within two years prior to the petition's filing date. The director also determined that a waiver of the requirement that the parties previously met was not warranted.

On appeal, the petitioner states that she traveled to India to meet her fiance but at the time of her visit, he was out of the country. Additional evidence has been submitted with the appeal.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiancee" as:

An alien who is the fiancee or fiance of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry....

Section 214(d) of the Act, 8 U.S.C. 1184(d), states in pertinent part that a fiancee petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two years before the date of filing the petition, have a bonafide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival...

The petition was filed with the Service on April 12, 1999. Therefore, the petitioner and the beneficiary must have met in person between April 13, 1997 and April 12, 1999.

The Petition for Alien Fiance(e) (Form I-129F) indicates that the petitioner never met her fiancee. Therefore, they have not met in person within two years prior to filing the fiancee petition on April 12, 1999.

Absent a personal meeting, the Attorney General may waive the requirement that the parties have previously met. According to the regulation at 8 C.F.R. 214.2(k)(2), the director may exempt the petitioner from this requirement only if it is established that compliance would:

- (1) Result in extreme hardship to the petitioner; or

(2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice....

The record contains no evidence that a personal meeting would cause extreme hardship to the petitioner. Further, the petitioner states that in her culture they are not allowed to meet each other. As evidence, the petitioner submitted two letters; one letter is from the Director for Religious Affairs at the Islamic Center, Rowland Heights, Ca., and the other is from the religious director at the Islamic Education Center, Walnut, Ca. Neither letter states that a meeting between the two parties is strictly prohibited. As a matter of fact, the religious director of the Islamic Education Center states in pertinent part that "one of the young couple may have to travel to the other country and see each other."

Also, information provided by the Library of Congress states that:

....we are not aware of any writer on Islamic law who has stated that the parties who are engaged to be married are prohibited from seeing or meeting each other....

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.